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S.B. CIVIL MISC. APPEAL NO.224/2007.
Unkar & Ors. Vs. Ravji Kharadi & Ors.

Date of Order :: 17th January 2007.

HON'BLE MR. JUSTICE DINESH MAHESHWARI

Mr. P.R. Mehta, for the appellants.

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BY THE COURT:

For quantification of compensation to be awarded to the parents, wife and minor children of the vehicular accident victim Nanu, 30 years in age and said to be working as a 'hamal' at Food Corporation of India godown, the Tribunal has taken note of the assertions of the claimants about earning of the deceased at Rs.8,000/- to 9,000/- per month; but for want of any cogent corroborative evidence on record, has put an estimate on the income of the deceased at Rs.2,100/- per month; and after deducting one-third wherefrom, has taken loss of contribution for the claimants at Rs.1,400/-; and with application of multiplier of 17, has assessed pecuniary loss at Rs.2,85,600/-. With addition of Rs.2,000/- towards funeral expenses and Rs.35,000/- towards non-pecuniary loss, the Tribunal has made the award in the sum of Rs.3,22,600/- together with interest @ 6% per annum from the date of filing of the claim application in favour of the claimants.

By way of this appeal, the claimants seek enhancement over the amount of compensation awarded by the Tribunal and learned counsel for the appellants has strenuously contended that the Tribunal has been in error in putting estimate on the income of the deceased only at Rs.2,100/- per month when the deceased was earning as a skilled labourer at Food Corporation of India godown; that the Tribunal has been in serious error in deducting one-third from the estimated income on the personal expenditure of the deceased and in view of a larger family to support, it was required of the Tribunal to adopt unit system for assessment of pecuniary loss and to deduct lesser amount towards personal expenditure of the deceased; that the Tribunal has been in error in applying multiplier of 17 though the deceased has been shown at 30 years of age and in such circumstances, multiplier of 18 ought to have been applied.

Having examined the award impugned and having given a thoughtful consideration to the submissions made on behalf of the appellants, this Court is clearly of opinion that this appeal remains bereft of substance and deserves to be dismissed without being admitted.

The estimate on the income of the deceased at Rs.2,100/- per month as put by the Tribunal cannot be said to be too low where the deceased has been shown to be working

as a ‘hamal’ and the submission of the learned counsel that he ought to have been considered as skilled labourer cannot be accepted in view of the nature of his work as suggested by the claimants. Then, deduction of one-third on the personal expenditure of the deceased from the estimated income is also just and proper. The five claimants are the parents, wife, and two minor children of the deceased. In the face of such family set up, the suggestion of deducting any amount lesser than one-third on the personal expenditure of the deceased does not appear justified. The family of the deceased consisting of himself, wife and children was of four persons only; and there does not appear any other material available on record to conclude that the parents were dependent exclusively on the deceased. The loss of dependency assessed by the Tribunal at Rs.1,400/- per month cannot be said to be insufficient or inadequate.

So far application of multiplier of 17 is concerned, the deceased has been shown to be about 30 years in age; and on being put to a specific question, learned counsel for the appellants is not in a position to say whether the deceased was above or below 30 years in age. However, it has been submitted that even if the age of the deceased were taken at 30 years, in the circumstances of the case and for the loss suffered by the family, multiplier of 18 ought to have been

applied. The submissions do not carry force. When the age of the deceased has been stated at 30 years and in the overall family set up, even if he was below the age of 30 years, application of multiplier of 17 in a claim case under Section 166 of the Motor Vehicles Act cannot be said to be grossly inadequate, insufficient, or unreasonable. Further, The Tribunal has not restricted the award on non-pecuniary loss and funeral expenses.

In the ultimate analysis, the award of compensation in the sum of Rs.3,22,600/- allowed in favour of the claimants does not appear unjust or insufficient so as to warrant interference in appeal.

The appeal fails and is, therefore, dismissed summarily.

(DINESH MAHESHWARI), J.

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